

# MEMORANDUM

December 28, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: NOHEMI GUTIERREZ FERGUSON  
Gutierrez, Preciado & House, LLP

ROGER H. GRANBO  
Principal Deputy County Counsel  
General Litigation Division

RE: John Novy v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 312339

DATE OF  
INCIDENT: May 30, 2003

AUTHORITY  
REQUESTED: \$75,000

COUNTY  
DEPARTMENT: Department of Community and Senior Services

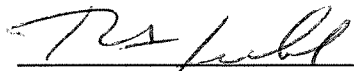
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## CLAIMS BOARD ACTION:

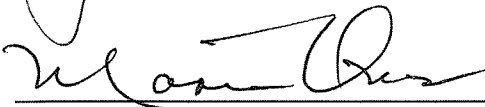
☒ Approve

☐ Disapprove

☐ Recommend to Board of  
Supervisors for Approval

  
\_\_\_\_\_, Chief Administrative Office  
**ROCKY A. ARMFIELD**

  
\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

  
\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on February 14, 2005

## SUMMARY

This is a recommendation to settle for \$75,000 a lawsuit brought by Los Angeles County Department of Community and Senior Services employee, John Novy, who alleges that he was retaliated against because he was a whistle blower.

## LEGAL PRINCIPLES

It is a violation of Federal and State law to retaliate against an employee for disclosing to a governmental agency the employer's alleged violation of state or federal regulations, also known as whistle blowing.

A prevailing plaintiff in a whistle blower lawsuit is entitled to an award of attorney fees.

A public entity is responsible for the intentional and negligent acts of its employees when the acts are done in the course and scope of employment.

## SUMMARY OF FACTS

In November of 1998, John Novy began working for the County's Department of Community and Senior Services (DCSS) as a Social Worker in the Department's Adult Protective Services (APS) Program.

Beginning in September 2000, Mr. Novy began making a series of complaints to his superiors, and to the California Department of Social Services (CDSS) that his supervisor and other social workers were not investigating cases properly. He also complained that two coworkers had falsified their time cards.

In March 2002, Mr. Novy complained to the County's Department of Human Resources (DHR) about the DCSS' lack of personnel manuals, policy manuals, and proper performance evaluation forms. He also complained about not receiving a timely performance evaluation. DHR investigated the complaints, and provided Mr. Novy with all of the documents he requested.

Mr. Novy claims that because of his complaints, he received a reprimand in July 2001, and a five-day suspension in May 2003. However, DCSS contends that the discipline imposed was for Mr. Novy's unprofessional conduct with members of the public, and for making a threat against another employee, and then refusing to meet with his superiors to discuss the DCSS' policies regarding threats by employees.

## DAMAGES

If this matter should proceed to trial, we estimate that the damages could be as follows:

Emotional distress	\$100,000
Attorney fees	<u>\$200,000</u>
	<u>\$300,000</u>

The proposed settlement calls for the County to pay \$75,000 to Mr. Novy for all claims for damages, costs, and attorney fees. In addition, Mr. Novy will resign from County service.

## STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

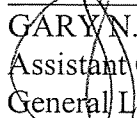
Expenses incurred by the County in defense of this action are attorney fees of \$31,854 and \$5,349 in costs.

## EVALUATION

This is a case of potential liability. Although we believe the evidence will show that the DCSS did not retaliate against Mr. Novy for making numerous complaints about the Department, an audit of various APS case files did find that some of the cases were not being handled properly, which was one of the complaints made by Mr. Novy. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our third party administrator, Carl Warren and Company, and our private counsel, Gutierrez, Preciado & House, LLP, in recommending a settlement of this matter in the amount of \$75,000. The Department of Community and Senior Services concurs in the recommendation.

APPROVED:

  
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GARY N. MILLER  
Assistant County Counsel  
General Litigation Division